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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,387	04/11/2001	Frederick Baker	CISCP202	3782

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EXAMINER
OSMAN, RAMY M

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☒ Claim(s) *6* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ .

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

Claim Objections

1.   Claim 6 objected to because of the following informalities: Change "." To ";" on page 22 lines 3 and 5.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3.   Claim 9 recites the limitation "response fragments" in page 22 line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1 and 3-6 rejected under 35 U.S.C. 103(a) as being unpatentable over Jindal (US Patent No 6,092,178) in view of Herrmann (US Patent No 6,522,651).

6.   In reference to claims 1 and 6, Jindal teaches method for providing information

for selecting a content server to a network node associated with a client, the method

comprising:

receiving a request for a response, message transmitted by a network node

associated with a client for selecting a content server (Abstract and Summary);

providing a response datagram, the response datagram associated with the

received request, wherein the network is configured to allow transmission of the response

datagram onto the network without dividing the response datagram into smaller

fragments (Abstract and Summary);

transmitting the response to the network node associated with the client for

selecting a content server wherein reception of the response by the network node

provides information for selecting a content server (Abstract, Summary and column 9

lines 34-67);

wherein the response datagram is associated with a network layer length, a

transport layer length, and a network layer header length (Summary, column 4 and figure

3).

Jindal fails to explicitly teach where the packets are padded wherein the padded

packet is obtained by padding it with an arrangement of bits, and transmitting the padded

packets to a network node. However, Herrmann teaches a network device padding data to

a packet to be transmitted over a network in order to accommodate various types of

transport network requirements (Abstract and column 2 line 55 – column 3 line 35).

It would have been obvious for one of ordinary skill in the art to modify Jindal by

padding the response packets as per the teachings of Herrmann so to accommodate

various types of transport network requirements.

7.   In reference to claim 3, Jindal teaches claim 1 wherein the response is a DNS

reply (Summary and column 5 lines 15-67).

8.   In reference to claim 4, Jindal fails to explicitly teach wherein the bits are

randomly generated. However, Herrmann teaches padding a packet with padding bytes

(column 4 line 40 – column 5 line 10).

It would have been obvious for one of ordinary skill in the art to modify Jindal by

padding the response packets as per the teachings of Herrmann so to accommodate

various types of transport network requirements.

9.   In reference to claim 5, Jindal teaches the method of claim 1 wherein the network

node responsible for selecting a content server is a local domain name server (Summary

and figure 1).

10.   Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Jindal (US

Patent No 6,092,178) in view of Herrmann (US Patent No 6,522,651) in further view of

Aviani et al. (Application No. 09/606,418).

Jindal fails to teach wherein the request is a Boomerang Control Protocol message. However, Official notice is taken that BCP is now well known in the art according to Aviani (Application No. 09/606,418) which has been issued as a patent. Aviani discloses the Boomerang process corresponding to request/response.

It would have been obvious for one of ordinary skill in the art to modify Jindal to incorporate the request/response process of the BCP as per the teachings of Aviani since it is a well known request/response protocol.

11.   Claims 7-29 do not teach or define any new limitations above claims 1-6 as mentioned above and are therefore rejected for similar reasons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M Osman whose telephone number is (703) 305-8050. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

RMO
July 29, 2004
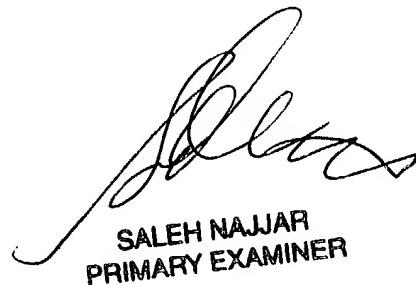
SALEH NAJJAR
PRIMARY EXAMINER